



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,603	12/28/2000	Katherine E. Hayes	XER 2 0346	6753

7590 02/06/2003

Albert P. Sharpe, III, Esq.
Fay, Sharpe, Fagan, Minnich & McKee, LLP
7th Floor
1100 Superior Avenue
Cleveland, OH 44114-2518

EXAMINER

AKERS, GEOFFREY R

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 02/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application	09/750602	Applicant(s)	<i>Hager</i>
Examiner	<i>Alan G</i>	Art Unit	3624
		Confirmation No.	

- The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address -

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

Responsive to communication(s) filed on 12/28/00

This action is FINAL. This action is non-final.

Since this application is in condition for allowance except for the formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

Claim(s) 1-19 is/are pending in this application.

Of the above claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1-19 is/are rejected.

Claim(s) _____ is/are objected to.

Claim(s) _____ are subject to restriction or election requirement.

Application Papers

The proposed drawing correction, filed on _____ is approved or disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.

The drawing(s) filed on _____ is/are accepted or objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d) or (f).

All Some* None of the:

Certified copies of the priority documents have been received.

Certified copies of the priority documents have been received in Application No. _____.

Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received:

Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). The translation of the foreign language provisional application has been received.

Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s) 2

Notice of References Cited, PTO-892

Notice of Draftsperson's Patent Drawing Review, PTO-948

Interview Summary, PTO-413

Notice of Informal Patent Application, PTO-152

Other _____

Art Unit: 3624

DETAILED ACTION

1. Claims 1-19 have been examined.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-19 are rejected under 35 USC 103(a) as unpatentable over Egendorf(US Pat. No: 6,411,940) in view of Melen(US Pat. No:5,956,391).

4. As per claims 1-19 Egendorf teaches an Internet billing system(Abstract)(Fig 1)(Fig 2) in which items of interest(Fig 2/15) are displayed and whereby the operation is described by outputs(Fig 2/16/13)(Fig 3/23/25)(col 2 line 58-col 4 line 30) as well as billing different accounts with different strategies(col 6 lines 22-60) and a descriptor of items(col 3 lines 11-25) as well as a transaction completion mark(col 5 lines 38-55) as well as an impression(col 5 lines 25-28). Melen teaches that the billing information is output at a terminal which may be a printer(Fig 4) as well as storing the billing strategy in machine readable form(col 8 line 25-49). It would have been obvious to one skilled in the art at the time of the invention to combine Egendorf in view of Melen to teach the above. The motivation to combine is to teach a method of buying articles and

Art Unit: 3624

services offered through the Internet and offered through credit card means as enunciated by Melen(col 3 line 62-col 4 line 10).

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-19 are further rejected under 35 USC 112(2nd) for failing to point out and precisely claim what applicant regards is the invention. Independent claims 1, 6 15,16,19 are overly broad. Additionally, applicant is requested to delineate in precise detail the algorithms defining the function of the billing meters with appropriate equations, flowcharts or relevant description.

Conclusion

7. **THIS ACTION IS MADE NON-FINAL.**

8. Any questions concerning this communication should be addressed to the examiner of record, Dr. Geoffrey Akers, P.E., who can be reached between 6:30 AM and 5:00 PM Monday through Friday at 703-306-5844. If attempts to contact the examiner are unsuccessful, the examiner's superior, Mr. Vincent Millin, SPE, may be telephoned at (703)-308-1065.

The fax number for Formal or Official faxes and Draft or Informal faxes to Technology Center 3600 or this Art Unit is (703)-308-3687. Any inquiry of a general nature or relating to the

Art Unit: 3624

status of this application should be directed to the Group receptionist whose telephone number is (703)-308-1113.

GRA



February 5, 2003